

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 19, 2006

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, Acting P.J., Vogel (Miriam A.), J., Rothschild, J. and P. Gonzalez,
Deputy Clerk.

Mallano, Acting P.J., announces that Presiding Justice Spencer is unable to be present for oral argument. Unless counsel voice an objection, it will be deemed that the parties stipulate to Presiding Justice Spencer participating in today's proceedings by listening to the audio recorded of oral argument.

Each of the following:

B187465	People v. Jones
B187541	People v. Castillo
B188486	People v. Ramirez
B189920	People v. Maldonado
B190172	People v. Seneca Insurance Co.
B190304	DCFS v. Michael S.
B190397	DCFS v. Javier C., and Felisia F.
B193690	Tonci R., v. SCLA (DCFS, rpi)
B194005	Christina W. v., SCLA (DCFS, rpi)
B194013	Ricardo V., v. SCLA (DCFS, rpi)

Argument waived, cause submitted.

Each of the following:

B185736	People v. Willie
B175841/B179026	Meshekow v. Ronn-Weir
B191033	Smythe v. White

Continued to January 23, 2007

DIVISION ONE (Continued)

Each of the following:

B179540 Humphrey v. Home Depot
B189249 People v. American Funds Distribution
B189885 Young v. McCoy

Continued to January 24, 2007

Rothschild, J., leaves the bench.

B184603 Andrea J. Von Lavrinoff
 v.
 Jimmy Taus et al.

Merits:

Argued by Andrea Von Lavrinoff for appellant and by Mark Eisenberg for respondents. Cause submitted.

Rothschild, J., returns to the bench.

B187311 People
 v.
 Daron G. Anderson

Matter:

Case called, no appearance for either appellant or respondent. Matter stands submitted.

Rothschild, J., leaves the bench.

DIVISION ONE (Continued)

B188966 People
 v.
 Dora L. Clark

Merits:

Argued by Heather J. Manolakas for appellant and by Michael J. Wise,
Deputy Attorney General for respondent. Cause submitted.

B183044 Michael De Walshe et al.
 v.
 Sarah Genis

Merits:

Argued by Jeff Price for appellant and by Jay Oberholtzer for respondents.
Cause submitted.

Rothschild, J., returns to the bench.

B187010 Karen Rybak
 v.
 Nancy J. Yee

Merits:

Argued by Eric Stegman for appellant and by Aparajito Sen for respondent.
Cause submitted.

B188839 Christopher G. Franklin
 v.
 Los Angeles County Sheriff's Department

Appearances by:

Christopher G. Franklin, appellant in propria persona and by Patrick L.
Hurley for respondent. Due to a medical emergency having arisen for
appellant C. Franklin, the matter is continued to January 23, 2007.

DIVISION ONE (Continued)

Rothschild, J., leaves the bench.

B184276 August Entertainment Inc.
 v.
 Philadelphia Indemnity Insurance Co.

Merits:

Argued by Christian J. Garris for appellant and by Jeffrey A. Miller for respondent. Cause submitted.

Rothschild, J., returns to the bench.

Vogel, J., leaves the bench.

B18688 Manuel Perez
 v.
 Lisi Aerospace Corp.

Merits:

Argued by Concepcion Arechabala for appellant and by Henry C. Truszkowski for respondent. Cause submitted.

B187259 Wayman Wendell Cheatham
 v.
 Mannkind Corporation

Merits:

Argued by Joseph W. Singleton for appellant and by Lori Ploeger for respondent. Cause submitted.

Vogel, J., returns to the bench.

Mallano, Acting P.J., leaves the bench.

DIVISION ONE (Continued)

B189472 Shawn Lenske
 v.
 City of Los Angeles

Merits:

Argued by Bitu M. Azimi for appellant and by Gerald M. Sato, Deputy City Attorney for respondent. Cause submitted.

Mallano, Acting P.J., returns to the bench.

B189566 Ritsuo Takeuchi et al.
 v.
 City of Los Angeles et al.
 New Paradise Church of God in Christ

Merits:

Argued by John B. Murdock for appellants; by Gary Olive for real party in interest and respondent, and by Mary J. Decker, Deputy City Attorney for respondent City of Los Angeles. Cause submitted.

Rothschild, J., returns to the bench.

B188451 Darleane 2, LLC
 v.
 Paul R. Roman et al.

Merits:

Argued by W. Ruel Walker for appellant and by Jonathan B. Cole for respondents. Cause submitted.

Mallano, Acting P.J., leaves the bench.

December 19, 2006 (Continued)

DIVISION ONE (Continued)

B185358 Richard Sanchez
v.
Andrew Adelman et al.

Merits:

Argued by Michael Leight for appellant and by Christine T. Hoeffner for respondent and by Chike Onyia for respondent City of Los Angeles. Cause submitted.

Court adjourned.

B187465 People (Not for Publication)
v.
Jones

The order under review is affirmed.

Mallano, Acting P.J.

In concur: Rothschild, J.

I concur in the judgment only: Vogel (Miriam A.), J.

DIVISION THREE

B185099 People (Not for Publication)
v.
Demetri L.

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

DIVISION THREE (Continued)

B191847 Los Angeles County, D.C.S. (Not for Publication)
v.
Casino S.

The order terminating parental rights is reversed and the matter is remanded to the juvenile court for the limited purpose of providing proper notice in compliance with provisions of the ICWA. If, after proper notice has been given and filed with the juvenile court, an Indian entity seeks to intervene or claims Anastasia S. is an Indian child within the meaning of the ICWA, the juvenile court shall proceed according to the dictates of the ICWA. If, on the other hand, no Indian entity seeks to intervene or otherwise indicates that Anastasia S. is an Indian child as defined by ICWA, the juvenile court shall reinstate the order terminating parental rights.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B187554 People (Not for Publication)
v.
Bayacal

The judgment is modified to reflect that appellant's sentence on counts two and three are stayed pursuant to Penal Code section 654. The Clerk of the Superior Court is directed to prepare a corrected minute order and a corrected abstract of judgment to reflect that the sentences on counts two and three are to be stayed and forward them to the Department of Corrections. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

DIVISION THREE (Continued)

[illegible]

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B184659 Hearst, II et al. (Certified for Publication)
v.
Ganzi, etc., et al.

The order is affirmed. The Trustees shall recover their costs on appeal.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B189149 Tibbs (Not for Publication)
v.
Automobile Club of Southern California, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

DIVISION THREE (Continued)

B186265 People (Not for Publication)

v.

Hernandez

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
 Aldrich, J.

B191629 Los Angeles County, D.C.S. (Not for Publication)

v.

Lupe S.

The order from which Mother has appealed is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B188029 Halcon (Not for Publication)

v.

Halcon

The order is affirmed. Respondent to have her costs on appeal.

Epstein, P.J.

We concur: Willhite, J.
 Manella, J.

DIVISION FOUR (Continued)

B190395 Los Angeles County, D.C.S. (Not for Publication)
v.
Billy H.

The order terminating parental rights is affirmed in part, reversed in part, and remanded for the limited purpose of the Department giving notice in compliance with the ICWA. Once the juvenile court finds that there has been substantial compliance with the notice requirements, it shall make a finding with respect to whether M.H. is an Indian child. If it finds that he is not, it shall reinstate the original order terminating appellant's parental rights. If it finds that he is an Indian child, the court shall set a new section 366.26 hearing and conduct all further proceedings in compliance with the ICWA and all related federal and state law.

Suzukawa, J.

We concur: Epstein, P.J.
Manella, J.

B194138 Ann-Marie S. (Not for Publication)
v.
Superior Court, Los Angeles County
(DCFS, r.p.i.)

The order setting a section 366.26 hearing is vacated and the January 11, 2007 hearing is stayed. The matter is remanded for the limited purpose of obtaining any additional information that petitioner may have regarding tribal affiliation of relatives other than Kobe's maternal grandmother, and for the court to ensure that the Department provides proper notice in compliance with the ICWA. In all other respects, the petition is denied.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

DIVISION FOUR (Continued)

B187298 Neshek, et al. (Not for Publication)

v.

Department of Consumer Affairs, et al.

The judgment is affirmed.

Manella, J.

We concur: Epstein, P.J.
 Willhite, J.

B190225 People (Not for Publication)

v.

Rodriguez

The judgment is affirmed.

Manella, J.

We concur: Epstein, P.J.
 Willhite, J.

B188565 Boonyarit (Not for Publication)

v.

Payless Shoesource, Inc.

The judgment is reversed. Plaintiff shall have his costs on appeal.

Willhite, J.

We concur: Epstein, P.J.
 Manella, J.

DIVISION FOUR (Continued)

B192491 Franklin R. Fraley, Jr., et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(Trillium, Inc., r.p.i.)

Let a peremptory writ of mandate issue compelling respondent court to set aside its order of June 14, 2006 denying defendants' motion for summary judgment and to enter a new and different order granting that motion. Petitioners are to recover their costs in this writ proceeding. (Cal. Rules of Court, rule 56(m).)

Willhite, J.

We concur: Epstein, P.J.
 Manella, J.

DIVISION FIVE

B194019 Dianne N. (Not for Publication)
v.
Superior Court, Los Angeles County
(D.C.F.S., r.p.i.)

The petition for extraordinary writ is denied. Pursuant to California Rules of Court, rule 24(d), this opinion is made final forthwith as to this court.

Mosk, J.

We concur: Armstrong, Acting P.J.
 Kriegler, J.

DIVISION FIVE (Continued)

B189212 In re Rosemary D. (Not for Publication)
v.
Los Angeles County Department of Children and Family Services
Lavenia P.,

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
 Kriegler, J.

B190913 Farmers Insurance Group (Not for Publication)
v.
Workers Compensation Appeals Board
Pacific Specialty, Respondent

The judgment is reversed.

Mosk, J.

We concur: Turner, P.J.
 Kriegler, J.

B190547 Ron Konig (Not for Publication)
v.
U-Haul Company of California

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

I concur: Kriegler, J.
I dissent: Mosk, J. (Opinion)

DIVISION FIVE (Continued)

B190433 Alice Adams (Not for Publication)

v.

Saatchi & Saatchi North America, Inc.

The judgment is reversed. Appellant(s) to recover costs.

Mosk, J.

I concur: Armstrong, J.

I dissent: Turner, P.J. (Opinion)

B187186 People (Not for Publication)

v.

Manuel Sandoval

The Count 5 conviction for committing a lewd act in violation of section 288 is reversed. The clerk of the superior court is instructed to prepare an amended abstract of judgment deleting the count 5 conviction and to deliver a copy to the Department of Corrections and Rehabilitation. The judgment of conviction is affirmed in all other respects.

Armstrong, J.

We concur: Turner, P.J.

Kriegler, J.

DIVISION SIX

B193526 Child Protective Services

v.

Tamara Lynn M.

Filed order dismissing appeal as abandoned.

December 19, 2006 (Continued)

DIVISION SIX (Continued)

B189110 People (Not for Publication)

V.
Mandras

The conviction on count two is vacated. In all other respects the judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B189818 Coral Casino Preservation Committee (Not for Publication)

v.
County of Santa Barbara, et al.,
Ty Warner Hotels and Resorts', LLC, et al.,
Member Committee of the Coal Casino, etc.,

The trial court's judgment denying CCPC'S petition for writ of mandamus is affirmed. Costs to respondents, real parties in interest and intervenors.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

DIVISION SEVEN

B185348 People

v.
Ho

Filed order denying petition for rehearing.

DIVISION SEVEN (Continued)

B191639 In re Tatiana C., a Minor (Not for Publication)
Los Angeles County, D.C.S.
v.
Robert W.

The order terminating father's parental rights is reversed and the cause is remanded to the juvenile court with directions for DCFS and the juvenile court to inquire of father whether Tatiana is or may be an Indian child within the meaning of the ICWA. If the inquiry produces evidence indicating Tatiana is or may be an Indian child, the juvenile court shall direct DCFS to comply with the notice provisions of the ICWA. If, after receiving proper notice under the ICWA, the Bureau of Indian Affairs or a tribe determines Tatiana is an Indian child within the meaning of the ICWA, the juvenile court shall proceed in conformity with all provisions of the ICWA. If, on the other hand, the inquiry of father produces no evidence indicating Tatiana is or may be an Indian child, or if there is no confirmation Tatiana is or may be eligible for Indian tribal membership, the order terminating parental rights shall be reinstated.

Johnson, Acting P.J.

We concur: Woods, J.
 Zelon, J.

B188931 In re Arnold S., a Minor (Not for Publication)
Los Angeles County, D.C.S.
v.
Christopher S.

The judgment is affirmed.

Zelon, J.

We concur: Johnson, Acting P.J.
 Woods, J.